

HARLEY O. WELLS  
9222 S. Wells Rd.  
Safford, AZ 85546  
(928)322-7265

CATHERINE M. WELLS  
9222 S. Wells Rd.  
Safford, AZ 85546  
(928)228-3142

Plaintiffs Standing Pro Se

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF ARIZONA**

HARLEY O. WELLS, a state of  
Arizona citizen, CATHERINE M.  
WELLS, a state of Arizona citizen,

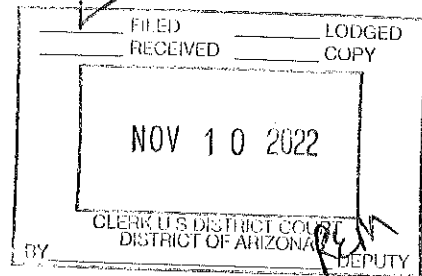
Plaintiff,

V.

STATE OF ARIZONA, DEPARTMENT OF  
PUBLIC SAFETY, a department of the  
executive branch of the State of Arizona;  
GRAHAM COUNTY, ARIZONA, a political  
sub-division of the state of Arizona; Deputy  
STEVE CARTER, in his personal capacity;  
Detective TY WILLIS, in his personal capacity;  
Deputy MARK SMITH, in his personal capacity;  
Detective. S. ENRICO, in his personal capacity;  
Detective. T. DESKINS, in his personal capacity;  
STATE GOVERNMENT ENTITIES A thru X;  
COUNTY GOVERNMENT ENTITIES A  
thru X; DOE'S INDIVIDUALS A thru X,

Defendants.

**COMPLAINT FOR DAMAGES**



C.V. - 22 - 00434 - TUC - SHR  
Case No. CV-00434-TUC-SHR

**FIRST AMENDED  
COMPLAINT**

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1 5.

2 Defendant Detective TY WILLIS (#5815), in his personal capacity, is an employee of the  
3 state of Arizona, works as a detective within Arizona Department of Public Safety and is also a  
4 member of the Southeastern Arizona Drug Task Force

5 6.

6 Defendant Deputy MARK SMITH, in his personal capacity, is an employee of Defendant  
7 GRAHAM COUNTY, works as a deputy within the Graham County Sheriff's Department and is  
8 also a member of the Southeastern Arizona Drug Task Force.

9 7.

10 Defendant Detective S. ENRICO (#6497), in his personal capacity, is an employee of  
11 Defendant GRAHAM COUNTY, works as a detective within the Graham County Sheriff's  
12 Department and is also a member of the Southeastern Arizona Drug Task Force.

13 8.

14 Defendant Detective T. DESKINS (#7891), in his personal capacity, is an employee of  
15 Defendant GRAHAM COUNTY, works as a detective within the Graham County Sheriff's  
16 Department and is also a member of the Southeastern Arizona Drug Task Force.

17  
18 **THE RELEVANT PROVISIONS OF THE UNITED STATES CONSTITUTION**  
19 **AND U.S. CODE**

20 9.

21 **The Fourteenth Amendment** to the United States Constitution provides "nor  
22 shall any state deprive any person of life, liberty, or property, without due process of law; nor  
23 deny to any person within its jurisdiction the equal protection of the laws.

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10.

**The Fourth Amendment** to the United States Constitution provides "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

11.

**42 U.S.C. § 1983** - Civil action for deprivation of rights

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress..."

12.

**42 U.S.C. § 1985** - Conspiracy to interfere with civil rights

**(3) DEPRIVING PERSONS OF RIGHTS OR PRIVILEGES**

"If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; "

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13.

**18 U.S. Code § 242 - Deprivation of rights under color of law**

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

**GENERAL ALLEGATIONS**

14.

The Plaintiff HARLEY ODELL WELLS was issued an Arizona Department of Health Services Medical Marijuana Program Patient card on August 3, 2018 and is specifically annotated to indicate that the plaintiff is authorized to cultivate marijuana.

15.

The Plaintiff CATHERINE M. WELLS was issued an Arizona Department of Health Services Medical Marijuana Program Patient card on August 3, 2018 and is specifically annotated to indicate that the plaintiff is authorized to cultivate marijuana.

16.

In their respective and individual lawful practice of growing marijuana in accordance with Arizona law, each named defendant segregated their respective cultivation practices and clearly marked each individual plant with plain markings as to the owner and cultivation authorization(s) in accordance with the Department of Health Services Marijuana Program.

17.

On or about October 20, 2018, Defendant DEPUTY STEVE CARTER, operating under the authority of the Defendant GRAHAM COUNTY by and threw the Southeastern Arizona Drug Task Force, entered upon the plaintiff's property without expressed permission, without having a warrant to enter the premises of the property and failed to inform the plaintiffs of his presence on the property for the sole purpose of photographing the plaintiff's permitted designated grow area.

18.

Defendant DEPUTY STEVE CARTER, in unlawfully entering the property of the plaintiffs, did so in a stealthy manner by accessing the property from the backside of the property which is seldomly monitored and placed himself in a position to take such photographs which is approximately a quarter mile from the boundary line of the property. Furthermore, it is physically impossible to view the grow area from the access road along the railroad tracks which the plaintiff's established permission to construct under a private easement which the Defendant CARTER entered without a warrant or probable cause. Inspection of the photographs clearly indicate that the Defendant was on the plaintiff's property when he took the photographs.

19.

On October 25, 2018, Defendant Detective TY WILLIS of the Arizona DEPARTMENT OF PUBLIC SAFETY submitted an affidavit to the Superior Court in application for a search warrant under probable cause. A search warrant, No SW201800004 was issue under the stated

1 request for the property owned by the plaintiffs, parcel number 113-28-014. The search warrant  
2 was exclusively in the name of the plaintiff HARLEY ODELL WELLS.

3 20.

4 Between October 25, 2018 and October 30, 2018, now retired (over thirty years) Deputy  
5 Kendall Curtis of the Graham County Sheriff's Department, who was a member of the  
6 Southeastern Arizona Drug Task Force, was asked by Defendant Deputy MARK SMITH to  
7 participate in the upcoming service of a search warrant on the plaintiff's property. Deputy Curtis  
8 directly and unequivocally declined to participate in the effort and in fact commented to Defendant  
9 Smith that the plaintiff HARLEY ODELL WELLS was not breaking any laws and that they should  
10 not proceed.

11 21.

12 On October 30, 2018, a team of various agency parties, which includes the named  
13 defendants as part of the Defendant Graham County, directed and led by the Southeastern Arizona  
14 Drug Task Force conducted the service of the search warrant upon the above detailed property  
15 located at E. Tin Ranch Road, Safford, AZ, Parcel number 113-28-014.

16 22.

17 Upon the execution of the above referenced search warrant, the named defendants,  
18 operating under the direction of and as constituent parts of the Southeastern Arizona Drug Task  
19 Force, seized property belonging to both plaintiffs as if they were co-mingled as being owned  
20 exclusively by the plaintiff HARLEY ODELL WELLS, even though the marijuana being grown  
21 lawfully was segregated and clearly marked, appropriately in accordance with the Arizona Revised  
22 Statutes and their respective Arizona Department of Health Services Medical Marijuana Program  
23 authorization to be the exclusive property of the individual plaintiff's, separately.

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23.

In addition to the above, the named defendants, either individually or collectively, also seized miscellaneous equipment and cameras along with also destroying locks and other personal property of both plaintiffs named herein.

24.

As a result of the service of the search warrant, the ARIZONA DEPARTMENT OF PUBLIC SAFETY, under the guise of the Southeastern Arizona Drug Task Force, at some point in time after November 15, 2018 and before September 4, 2019, submitted to the court a "Search Warrant Receipt Report", incident #AZ1800431153, which included a General Report complete with statement from Defendant Det. TY WILLIS (#5815), Det. S. ENRICO (#6497) and Det. T. DESKINS (#7891) detailing the events of the service of the warrant.

25.

Included in the aforementioned statements contained within the "Search Warrant Receipt Report" are references to the utilization of the photographs taken by Defendant DEPUTY STEVE CARTER that were taken prior to the acquiring of a warrant for the justification of probable cause and in addition it was claimed that the grow area was able to be seen from the road. However, the closest public highway/road is located approximately 10 miles away from the property making it totally impossible to physically see the grow area from a public road.

26.

As a result of the actions by the Defendants, Deputy STEVE CARTER, Det. TY WILLIS, Det. S. ENRICO, Det. T. DESKINS, and Deputy MARK SMITH and Defendant GRAHAM COUNTY operating under the guise of the Southeastern Arizona Drug Task Force, the Plaintiff HARLEY ODEAL WELLS was arrested on September 4, 2019. The plaintiff was incarcerated for a period of six (6) days and released on September 9, 2019.



1 27.

2 The Plaintiff HARLEY ODELL WELLS was officially charged with the production of  
3 Marijuana, a Class 5 Felony in violation of A.R.S. Sections 13-3405(A)(3) and (B)(7), 13-3401,13-  
4 701 and 13-901 and ordered to answer before the Superior Court for the stated charges on  
5 September 11, 2019.

6 28.

7 The trial for the charges against the Plaintiff HARLEY ODELL WELLS, under case  
8 #CR2019-00260, was commenced on February 5, 2020, and concluded on the following day,  
9 February 6, 2020 ending with his conviction by a jury.

10 29.

11 During the trial, the Plaintiff HARLEY O. WELLS was refused the right to inspect and  
12 display the marijuana that he had legally grown to the jury which was only presented in open court  
13 to the jury in a single closed and sealed cardboard box. The State of Arizona claimed that they  
14 had in their possession upwards of 30 similar boxes but did not physically present them to the jury.  
15 Upon demand to open the purported evidence, the Court refused under the guise that such a  
16 production or display would "Offend the women" of the jury. In open court, the Plaintiff  
17 vehemently objected to the Courts decision to exclude him from the inspection and presentation  
18 of such evidence.

19 30.

20 On March 4, 2021, the Plaintiff HARLEY ODELL WELLS filed an appeal to the decision  
21 of the SUPERIOR COURT OF GRAHAM COUNTY on his conviction to the ARIZONA COURT OF  
22 APPEALS.

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1 31.

2 The Defendant GRAHAM COUNTY'S Adult Probation Department submitted a report,  
3 Authored by Probation Officer Michael Kenehan, on March 5, 2020, as a result of a presentence  
4 investigation resulting from his conviction on the above charges in preparation for a March 11,  
5 2020 sentencing date. The summary report detailed the recommendations for the sentencing for  
6 the Superior Court.

7 32.

8 The Plaintiff HARLEY ODELLWELLS was sentenced for his alleged criminal conduct  
9 on March 11, 2020 to three (3) years of standard supervised probation, six (6) days in jail with  
10 credit for time served plus assessments of \$75 monthly, @20 time payment fee, \$20 surcharge,  
11 \$10 Court Security fee and #13 Law enforcement Assessment.

12 33.

13 The ARIZONA COURT OF APPEALS issued its ruling vacating and remanding the Plaintiff  
14 HARLEY WELLS' conviction under appeal case number 2 CA-CR 2020-0066 on July 1, 2021.  
15 The Appeals Court found that the prosecution of the Plaintiff was based on the fact that the  
16 Defendant's named herein, improperly conflated administrative code with statutory provisions of  
17 law in charging and prosecuting him in the Superior Court.

18 34.

19 On August 10, 2021, the SUPERIOR COURT OF GRAHAM COUNTY, upon receipt of the  
20 aforementioned order of the ARIZONA COURT OF APPEALS, dismissed the case, #CR2019-00260,  
21 with prejudice to the benefit of the Plaintiff HARLEY O. WELLS.

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1 CAUSES OF ACTION

2 FIRST CLAIM FOR RELIEF

3 Gross Negligence

4 Count One

5 35.

6 Plaintiff re-alleges every one of the forgoing paragraphs as though the same were set forth  
7 verbatim, incorporated them herein by this reference.

8 36.

9 That every one of the defendants, and each of their, herein-described acts (of commission  
10 and/or omission) was grossly negligent and/or carelessly – and/or – that at all times alleged herein,  
11 the defendants, and each of them, acted intentionally, willfully, and/or in reckless disregard of the  
12 plaintiff's rights and feelings and/or with such disregard that their actions amount to oppression,  
13 malice-in-fact, and/or conscious disregard of the rights of the plaintiff while acting under the color  
14 of law.

15 37.

16 The Defendant GRAHAM COUNTY, by and threw its employees and agents, Defendants  
17 Deputy STEVE CARTER, Det. TY WILLIS, Det. S. ENRICO, Det. T. DESKINS, and Deputy  
18 MARK SMITH, named herein as defendants, acting in concert of action, arrested, incarcerated  
19 and caused the prosecuted the Plaintiff HARLEY ODELL WELLS in conscious disregard of the  
20 law or his rights. As such the acts constitute gross negligence as recognized by Arizona law and  
21 precedence.

22 38.

23 The grossly negligent act of charging, arresting under a warrant established in an ORDER  
24 HOLDING DEFENDANT TO ANSWER BEFORE THE SUPERIOR COURT, case number CR 2019 220, on  
25

1 September 11, 2019, ending with his trial on or about February 5-6, 2020, was as noted in the  
2 reversal by the Arizona Appellate Court, as being improper and falls outside of qualified immunity  
3 for public officials or for parties acting in their respective individual capacities.

4 39.

5 While Common law qualified immunity generally provides public officials protection from  
6 liability when performing an act that inherently requires judgement or discretion, the acts of the  
7 named defendant falls outside of the immunity provided as an administrative act or discretionary  
8 function. The law established by the Arizona legislature has been clearly annotated which the  
9 Arizona Appellate Court ruled in reversing the Superior Court's conviction of the Plaintiff  
10 HARLEY ODELL WELLS.

11 40.

12 Such acts in charging and ultimately convicting the Plaintiff HARLEY O. WELLS with a  
13 crime, as the ARIZONA COURT OF APPEALS ruling in overturning his conviction, was predicated on  
14 the improper application of Arizona Administrative Code by conflating such code with the Arizona  
15 Revised Statutes. Such code is commercial or regulatory while the statutes concerning the lawful  
16 cultivation of marijuana concerns criminal acts. The Defendants, by and through their respective  
17 agents, are experienced law enforcement agents, who's acts clearly fall outside of the discretionary  
18 functions and constitutes a reckless disregard of the Plaintiff's rights.

19 41.

20 In clarifying the above, prior to even securing a search warrant, Deputy Kendall Curtis of  
21 the Graham County Sheriff's Department, who was a member of the Southeastern Arizona Drug  
22 Task Force, was asked by Defendant Deputy MARK SMITH to participate in the upcoming service  
23 of a search warrant on the plaintiff's property. Deputy Curtis directly and unequivocally declined  
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1 to participate in the effort and in fact commented to Defendant SMITH that the plaintiff HARLEY  
2 ODELL WELLS was not breaking any laws and that they should not proceed.

3 42.

4 Furthermore, the actions of Defendant Graham County, acting threw its agent, Defendant  
5 Deputy STEVE CARTER, in entering the property owned by the plaintiffs, unannounced and in a  
6 stealthy manner, without a warrant, to take pictures of the plaintiff's lawful grow area was grossly  
7 negligent and in violation of the Plaintiff's constitutional rights as detailed in the Fourth  
8 Amendment to the U.S. Constitution.

9 43.

10 As such, the actions of the Defendant GRAHAM COUNTY, by and threw its employees  
11 and agents, named herein as defendants, acting in concert of action, amounts to gross negligence  
12 in disregarding the rights of the Plaintiffs HARLEY ODELL WELLS and CATHERINE M.  
13 WELLS.

14 44.

15 Ultimately, on August 10, 2021, the SUPERIOR COURT OF GRAHAM COUNTY, after reversal  
16 by the ARIZONA COURT OF APPEALS, dismissed the criminal case against the Plaintiff HARLEY  
17 WELLS, with prejudice.

18 45.

19 By reason thereof, plaintiff has been injured, sustained losses and suffered damage as  
20 herein alleged.

21 WHEREFORE, plaintiff prays for judgment against defendants, and each of them, as  
22 hereinafter set forth.

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Count Two

46.

Plaintiff re-alleges every one of the forgoing paragraphs as though the same were set forth verbatim, incorporated them herein by this reference.

47.

That every one of the defendants, and each of their, herein-described acts (of commission and/or omission), committed under the color of law, was grossly negligent and/or carelessly — and/or — that at all times alleged herein, the defendants, and each of them, acted intentionally, willfully, and/or in reckless disregard of the plaintiff's rights and feelings and/or with such disregard that their actions amount to oppression, malice-in-fact, and/or conscious disregard of the rights of the plaintiff.

48.

Upon the issuance of a search warrant (AZ1800431153) on or about October 25, 2018, the Defendants GRAHAM COUNTY, by and threw its employees and agents, named herein as defendants, seized property located, designated and detailed under the aforementioned report.

49.

As previously indicated the Plaintiff HARLEY ODELL WELLS was ultimately arrested and stood trial for violation of A.R.S. 36-2801(6) which is a statutory provision of the Arizona Medical Marijuana Act (AMMA). At trial he was convicted of the charges brought for by the State of Arizona in case number CR2019-00260.

50.

Also as previously indicated, the ARIZONA COURT OF APPEALS overturned the Plaintiff HARLEY O. WELLS' conviction as reversible error. Furthermore, the SUPERIOR COURT OF

1 GRAHAM COUNTY dismissed the criminal case against the plaintiff with prejudice on August 10,  
2 2021.

3 51.

4 After the SUPERIOR COURT OF GRAHAM COUNTY dismissed the criminal case, the  
5 Defendant GRAHAM COUNTY, by and threw its employees and agents, named herein as  
6 defendants, refused to return the property of plaintiffs HARLEY O. WELLS and CATHERINE  
7 M. WELLS the was seized and/or destroyed under the search warrant issued by Superior Court  
8 Judge Michael Peterson.

9 52.

10 Specifically, regarding the plaintiff Catherine M. Wells, upon the issuance of a search  
11 warrant (AZ1800431153) on or about October 25, 2018, the Defendant GRAHAM COUNTY, by  
12 and threw its employees and agents, named herein as defendants, acting by and through their  
13 agents, seized property located, designated and detailed under the aforementioned report.

14 53.

15 The stated search warrant was issued in the name of Plaintiff HARLEY ODEAL WELLS  
16 as evidenced in the Arizona Department of Public Safety, General Report authored and filed by  
17 Defendant Detective T. WILLIS, #5815 under incident report AZ1800431153.

18 54.

19 In seizing the property under the search warrant, the reporting officer(s) failed to disclose  
20 to the court in their respective report that the growing of marijuana was conducted under the  
21 AMMA and that two separate and segregated grow areas were in fact the conditions upon their  
22 arrival and that one of the areas was clearly and concisely posted and marked as being under the  
23 valid AMMA license of the Plaintiff CATHERINE M. WELLS.

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1 55.

2 The Plaintiff CATHERINE M. WELLS was never charged with any crime nor brought  
3 before any court for any alleged violation of Arizona statutory provisions under the stated AMMA.

4 56.

5 The Plaintiff contends that the seizure of her exclusive property was improper, unlawful  
6 and in violation of the Fourth Amendment to the U.S. Constitution. As such, the actions of the  
7 Defendant GRAHAM COUNTY, by and threw its employees and agents, named herein as  
8 defendants, was in conscious disregard for the Plaintiff CATHERINE M. WELLS rights,  
9 constituting gross negligence as being in total disregard of the law and legal precedence.

10 57.

11 In addition, in furtherance of their conduct, the Defendants GRAHAM COUNTY, by and  
12 threw its employees and agents, named herein as defendants, as with her husband, Plaintiff  
13 HARLEY WELLS, has refused to return the property of the Plaintiff CATHERINE M. WELLS,  
14 upon demand. Furthering their act(s) in violation of her rights which is an extension of the  
15 defendant's conscious disregard of the law and rights of the Plaintiff.

16 58.

17 By reason thereof, plaintiff has been injured, sustained losses and suffered damage as  
18 herein alleged.

19 WHEREFORE, plaintiff prays for judgment against defendants, and each of them, as  
20 hereinafter set forth.

21 59.

22 Such an act in their refusal to return the property seized or destroyed by the defendant  
23 GRAHAM COUNTY, by and threw its employees and agents, named herein as defendants, under  
24 a search warrant, after the case had been dismissed as a result of the Decision Order issued by the  
25



1 ARIZONA COURT OF APPEALS and the subsequent SUPERIOR COURT OF GRAHAM COUNTY'S  
2 dismissal with prejudice constitutes an act of gross negligence by the multiple agents of the  
3 defendants.

4 60.

5 By reason thereof, plaintiff has been injured, sustained losses and suffered damage as  
6 herein alleged.

7 WHEREFORE, plaintiff prays for judgment against defendants, and each of them, as  
8 hereinafter set forth.

9 SECOND CLAIM FOR RELIEF

10 FALSE ARREST AND IMPRISONMENT

11 61.

12 Plaintiff re-alleges every one of the forgoing paragraphs as though the same were set forth  
13 verbatim, incorporated them herein by this reference.

14 62.

15 That every one of the defendants, and each of their, herein-described acts (of commission  
16 and/or omission), acting under the color of law, was grossly negligent and/or carelessly – and/or –  
17 that at all times alleged herein, the defendants, and each of them, acted intentionally, willfully,  
18 and/or in reckless disregard of the plaintiff's rights and feelings and/or with such disregard that  
19 their actions amount to oppression, malice-in-fact, and/or conscious disregard of the rights of the  
20 plaintiff.

21 63.

22 As is evident by the ARIZONA COURT OF APPEALS reversal of the lower court's conviction  
23 of the Plaintiff HARLEY ODELL WELLS under case/order number 2 CA-CR 2020-0066, THE  
24 Superior Court as well as the agents of the defendants conflated and combined the Arizona  
25

Administrative Code with the Arizona Revised Statutes to the detriment of the Plaintiff HARLEY O. WELLS.

64.

In conjunction to the above, the fact that the Defendant's collectively, failed to disclose to the court, that they were informed prior to acquiring and executing the search warrant, that an experienced law enforcement officer had in fact counseled them that the Plaintiff was not breaking any laws to warrant their attempt to acquire the search warrant, the defendant Graham County, acting by and threw its employees and agents named herein as defendants, intentionally and willfully arrested and committed the Plaintiff HARLEY O. WELLS to detention for a period of six (6) days.

65.

Such actions by the STATE OF ARIZONA and Defendant GRAHAM COUNTY, by and threw its employees and agents named herein as defendants, acting in concert of action, constitutes false arrest and imprisonment under false charges which were manufactured and presented to the Court for the sole purpose of punishing the Plaintiff HARLEY O. WELLS in a punitive manner.

66.

By reason thereof, plaintiff has been injured, sustained losses and suffered damage as herein alleged.

WHEREFORE, plaintiff prays for judgment against defendants, and each of them, as hereinafter set forth.

THIRD CLAIM FOR RELIEF

Malicious Prosecution

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1 67.

2 Plaintiff re-alleges every one of the forgoing paragraphs as though the same were set forth  
3 verbatim, incorporated them herein by this reference.

4 68.

5 That every one of the defendants, and each of their, herein-described acts (of commission  
6 and/or omission) was grossly negligent and/or carelessly – and/or – that at all times alleged herein,  
7 the defendants, and each of them, acted intentionally, willfully, and/or in reckless disregard of the  
8 plaintiff's rights and feelings and/or with such disregard that their actions amount to oppression,  
9 malice-in-fact, and/or conscious disregard of the rights of the plaintiff.

10 69.

11 As is evident by the ARIZONA COURT OF APPEALS reversal of the lower court's conviction  
12 of the Plaintiff HARLEY WELLS under case/order number 2 CA-CR 2020-0066, THE Superior  
13 Court as well as the agents of the defendants conflated and combined the Arizona Administrative  
14 Code with the Arizona Revised Statutes to the detriment of the Plaintiff HARLEY O. WELLS.

15 70.

16 In conducting themselves in this manner, as is evidenced in the ARIZONA  
17 DEPARTMENT OF PUBLIC SAFETY, General Report, authored and filed by Defendant  
18 DETECTIVE T. WILLIS #5815, under incident report AZ1800431153, the defendant GRAHAM  
19 COUNTY, by and threw its employees and agents named herein as defendants, acting in concert  
20 of action, clearly accomplished this act and promoted the grossly negligent approach before the  
21 court in order to charge the Plaintiff HARLEY ODELL WELLS under the Order Holding  
22 Defendant To Answer Before the Superior Court on the stated charges, CR 2019 220 on September  
23 11, 2019.

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71.

In fact, statements made by Defendant DET. WILLIS in the report clearly delineates that he did in fact conflate the Arizona Revised Statutes with parts of the Arizona Administrative code and submitted such statements to the Superior Court which led to the filing of charges against the plaintiff HARLEY ODELL WELLS. In addition, the Defendant's collectively, failed to disclose to the court, that they were informed prior to acquiring and executing the search warrant, that an experienced law enforcement officer had in fact counseled them that the Plaintiff was not breaking any laws to warrant their attempt to acquire the search warrant. In essence, the named defendants failed to disclose exculpatory evidence and information to the court in their zeal to secure the search warrant.

72.

Such actions by the STATE OF ARIZONA and Defendant GRAHAM COUNTY, by and threw its employees and agents named herein as defendants, acting in concert of action, constitutes malicious prosecution against the Plaintiff HARLEY ODELL WELLS that is not protected under immunity based on a discretionary or administrative act or subject to judgement or discretion.

73.

By reason thereof, plaintiff has been injured, sustained losses and suffered damage as herein alleged.

WHEREFORE, plaintiff prays for judgment against defendants, and each of them, as hereinafter set forth.

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**FOURTH CLAIM FOR RELIEF**

**Civil Rights Violation under 42 U.S.C. § 1983**

**74.**

Plaintiff re-alleges every one of the forgoing paragraphs as though the same were set forth verbatim, incorporated them herein by this reference.

**75.**

That every one of the defendants, and each of their, herein-described acts (of commission and/or omission) was grossly negligent and/or carelessly – and/or – that at all times alleged herein, the defendants, and each of them, acted intentionally, willfully, and/or in reckless disregard of the plaintiff's rights and feelings and/or with such disregard that their actions amount to oppression, malice-in-fact, and/or conscious disregard of the rights of the plaintiffs and are subject to 18 U.S. Code § 242.

**76.**

On information and belief, the STATE OF ARIZONA and Defendant GRAHAM COUNTY, by and threw its agents named herein as defendants, acting in concert of action, violated the protections afforded and secured to the Plaintiff's HARLEY O. WELLS and CATHERINE M. WELLS under 42 U.S.C. § 1983.

**77.**

Regarding the STATE OF ARIZONA and Defendant GRAHAM COUNTY, while acting in concert with named defendant state and county actors, actively worked and acted in depriving the Plaintiff's HARLEY O. WELLS and CATHERINE M. WELLS of their rights, privileges, or immunities secured by the Constitution and laws, both federal and state.

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78.

As is set forth herein, the artifice and scheme by the STATE OF ARIZONA and Defendant GRAHAM COUNTY, by and through their agents and employees named herein as defendants, was purposefully designed to unlawfully deprive, either directly or indirectly, the Plaintiffs HARLEY O. WELLS and CATHERINE M. WELLS of the equal protection of the laws, or of equal privileges and immunities under the law; or for the purpose of unlawfully enticing, urging and constructing a case before the constituted authorities of the Superior Court of Graham County, State of Arizona against the Plaintiff HARLEY O. WELLS and a seizure of the plaintiff CATHERINE M. WELLS property.

79.

As a result of the actions of the Defendant GRAHAM COUNTY, by and through their agents and employees named herein as defendants, the Plaintiff HARLEY ODELL WELLS was unlawfully incarcerated for a period of six days, had his and the Plaintiff CATHERINE M. WELLS' property being destroyed and seized and never returned to them undamaged. Nor were they ever compensated for the damages caused by the actions of the defendants named herein.

80.

By reason thereof, plaintiff has been injured, sustained losses and suffered damage as herein alleged.

WHEREFORE, plaintiff prays for judgment against defendants, and each of them, as hereinafter set forth.

///

///

///

**FIFTH CLAIM FOR RELIEF**

**Civil Rights Violation under 42 U.S.C. § 1985 (3)**

**81.**

Plaintiff re-alleges every one of the forgoing paragraphs as though the same were set forth verbatim, incorporated them herein by this reference.

**82.**

That every one of the defendants, and each of their, herein-described acts (of commission and/or omission) was grossly negligent and/or carelessly – and/or – that at all times alleged herein, the defendants, and each of them, acted intentionally, willfully, and/or in reckless disregard of the plaintiff's rights and feelings and/or with such disregard that their actions amount to oppression, malice-in-fact, and/or conscious disregard of the rights of the plaintiff while acting under the color of law.

**83.**

As is set forth herein, the artifice and scheme to purposefully deprive, either directly or indirectly, the Plaintiff's HARLEY O. WELLS and CATHERINE M. WELLS of the equal protection of the laws, or of equal privileges and immunities under the law; or for the purpose of preventing or hindering the constituted authorities of the STATE OF ARIZONA and Defendant GRAHAM COUNTY, by and through their agents and employees, from giving or securing to the Plaintiff's HARLEY O. WELLS and CATHERINE M. WELLS the equal protection of the laws was conducted by multiple conspiring parties.

**84.**

From the onset of the actions by the STATE OF ARIZONA and Defendant GRAHAM COUNTY, by and through their agents and employees named as defendants herein, in securing a search warrant under questionable circumstances which lead to the prosecution of the Plaintiff

1 HARLEY ODELL WELLS, clearly the concerted effort, under the color of law, was designed to  
2 intimidate the plaintiff into submission to their authority even when such authority was misguided,  
3 improper and unlawful.

4 85.

5 As experienced law enforcement officers, the agents and employees of the STATE OF  
6 ARIZONA and defendant GRAHAM COUNTY were in a position to know and did in fact have  
7 constructive knowledge that the Plaintiff HARLEY WELLS in growing marijuana under the  
8 AMMA was acting lawfully and within the statutes detailed in the Arizona Revised Statutes as set  
9 by the state legislature. Prior to the execution of the aforementioned search warrant upon the  
10 plaintiff's property, the named actors were in fact told directly by a long-experienced deputy, now  
11 retired, assigned to the Southeastern Arizona Drug Task Force that the plaintiff HARLEY O.  
12 WELLS was not in fact breaking any laws.

13 86.

14 The STATE OF ARIZONA and defendant GRAHAM COUNTY, by and through their  
15 agents and employees named as defendants herein, chose instead to disregard the legal interests of  
16 the Plaintiffs HARLEY WELLS and CATHERINE M. WELLS even though they both had  
17 conducted themselves within the law and were in fact bonified card holders entitling them to grow  
18 marijuana. In totality, the circumstances giving rise to this complaint suggests the existence of a  
19 conspiracy against giving or securing to both the Plaintiffs HARLEY WELLS and CATHERINE  
20 M. WELLS the equal protection and immunities of the laws.

21 87.

22 By reason thereof, plaintiff has been injured, sustained losses and suffered damage as  
23 herein alleged.



1 WHEREFORE, plaintiff prays for judgment against defendants, and each of them, as  
2 hereinafter set forth.

3 SIXTH CLAIM FOR RELIEF

4 Civil Rights Violation under 14<sup>th</sup> Amendment

5 Count One

6 88.

7 Plaintiff re-alleges every one of the forgoing paragraphs as though the same were set forth  
8 verbatim, incorporated them herein by this reference.

9 89.

10 That every one of the defendants, and each of their, herein-described acts (of commission  
11 and/or omission) was grossly negligent and/or carelessly – and/or – that at all times alleged herein,  
12 the defendants, and each of them, acted intentionally, willfully, and/or in reckless disregard of the  
13 plaintiff's rights and feelings and/or with such disregard that their actions amount to oppression,  
14 malice-in-fact, and/or conscious disregard of the rights of the plaintiff.

15 90.

16  
17 The Fourteenth Amendment to the Constitution under Section 1 guarantees that "no State  
18 shall make or enforce any law which shall abridge the privileges or immunities of citizens of the  
19 United States; nor shall any State deprive any person of life, liberty, or property, without due  
20 process of law; nor deny to any person within its jurisdiction the equal protection of the laws".

21 91.

22 All such 14<sup>th</sup> Amendment claims are directly associated to and directly linked to prior  
23 detailed civil rights violations under 42 U.S.C. § 1983 & §1985.

24 ///

25 ///

1 92.

2 During the trial on the charges brought before him on February 5-6, 2020, the Plaintiff  
3 HARLEY WELLS was refused the opportunity to examine in open court before the jury of the  
4 evidence (marijuana) that was seized during the execution and service of the search warrant on his  
5 property on October 30, 2018.  
6

7 93.

8 Such evidence was located in what is reported to be up to 30 individual sealed boxes that  
9 upon external examination and by physically picking them up, suggests that the boxes were in fact  
10 empty. Upon noticing this fact, the Plaintiff HARLEY WELLS addressed this issue before the  
11 court and was rebuffed and denied the ability to open the boxes in open court to inspect the contents  
12 of the boxes.

13 94.

14 Instead, the prosecution for the defendant showed the jury a series of photos that were  
15 alleged to be contents of the asserted boxes. However, at no time was the existence of this evidence  
16 as being contained in the boxes, confirmed before the jury, and in fact the court suggested that the  
17 examination of the evidence in open court would be offensive to the female members of the jury.  
18 A clear violation of the Plaintiff HARLEY O. WELLS due process rights.

19 95.

20 The Plaintiff HARLEY WELLS, is as a matter of due process, lawfully entitled to inspect  
21 and show the jury the evidence that the prosecution is presenting for their case against him. The  
22 Superior Court of Graham County failed to afford the plaintiff of this basic fundamental right in  
23 violation of the 14<sup>th</sup> amendment.

24 96.

25 As a result of this action or inaction, combined with other acts by the Court, the Plaintiff  
HARLEY WELLS was convicted of the charges against him and suffered the consequence of such

1 a conviction and was forced to appeal the decision of the Court to the ARIZONA COURT OF APPEALS.  
2 The conviction was reversed and remanded back to the SUPERIOR COURT OF GRAHAM COUNTY, at  
3 which time the Court dismissed the case with prejudice.

4 97.

5 By reason thereof, plaintiff has been injured, sustained losses and suffered damage as  
6 herein alleged.

7 WHEREFORE, plaintiff prays for judgment against defendants, and each of them, as  
8 hereinafter set forth.

9 Count Two

10 98.

11 Plaintiff re-alleges every one of the forgoing paragraphs as though the same were set forth  
12 verbatim, incorporated them herein by this reference.

13 99.

14 That every one of the defendants, and each of their, herein-described acts (of commission  
15 and/or omission) was grossly negligent and/or carelessly – and/or – that at all times alleged herein,  
16 the defendants, and each of them, acted intentionally, willfully, and/or in reckless disregard of the  
17 plaintiff's rights and feelings and/or with such disregard that their actions amount to oppression,  
18 malice-in-fact, and/or conscious disregard of the rights of the plaintiff.

19 100.

20 The Fourteenth Amendment to the Constitution under Section 1 guarantees that "no State  
21 shall make or enforce any law which shall abridge the privileges or immunities of citizens of the  
22 United States; nor shall any State deprive any person of life, liberty, or property, without due  
23 process of law; nor deny to any person within its jurisdiction the equal protection of the laws".

24 ///

1 101.

2 All such 14<sup>th</sup> Amendment claims are directly associated to and directly linked to prior  
3 detailed civil rights violations under 42 U.S.C. § 1983 & §1985.

4 102.

5 At the conclusion of the trial on the charges brought before him on February 5-6, 2020, the  
6 Plaintiff HARLEY O. WELLS was refused the opportunity to examine and question the jury as to  
7 the reasons and rationales that were used to come to their respective verdict in the case.

8 103.

9 In dismissing the jury before affording the Plaintiff HARLEY WELLS the opportunity to  
10 question them on the process in which they used to come to their guilty verdict, the Court, even  
11 when requested by the plaintiff, then defendant, interceded in providing a commonly used practice  
12 that is utilized to determine pathways to appeal the decision of the Court.

13 104.

14 Such an act by the State of ARIZONA and the unlawful practice of Defendant GRAHAM  
15 COUNTY, by and through their agents and employees, named as defendants herein, acting under  
16 the color of law, has violated the due process rights of the PLAINTIFF HARLEY WELLS as  
17 clearly laid out in the 14<sup>th</sup> Amendment to the U.S. Constitution.

18 105.

19 By reason thereof, plaintiff has been injured, sustained losses and suffered damage as  
20 herein alleged.

21 WHEREFORE, plaintiff prays for judgment against defendants, and each of them, as  
22 hereinafter set forth.

23 ///

24 ///

25 ///

**SEVENTH CLAIM FOR RELIEF**

**Intentional Infliction of Emotional Distress**

**106.**

Plaintiff re-alleges every one of the forgoing paragraphs as though the same were set forth verbatim, incorporated them herein by this reference.

**107.**

That every one of the defendants, and each of their, herein-described acts (of commission and/or omission) was grossly negligent and/or carelessly – and/or – that at all times alleged herein, the defendants, and each of them, acted intentionally, willfully, and/or in reckless disregard of the plaintiff's rights and feelings and/or with such disregard that their actions amount to oppression, malice-in-fact, and/or conscious disregard of the rights of the plaintiff while acting under the color of law.

**108.**

The heretofore Intentional Infliction of Emotional Distress claim is directly associated to and directly linked to the herein detailed civil rights violations under 42 U.S.C. § 1983 & § 1985, Civil and procedural rights violations under the 14<sup>th</sup> Amendment, constitutional violations of protections against unlawful seizure of property under the 4<sup>th</sup> Amendment, malicious arrest and malicious prosecution.

**109.**

The herein acts alleged to be committed by the Defendants GRAHAM COUNTY, by and through their agents and employees, named as defendants herein, were done with total and complete disregard of the Plaintiffs HARLEY O. WELLS and CATHERINE M. WELLS rights and were extreme or outrageous with either the intention of, or reckless disregard for causing

1 emotional distress to the Plaintiffs and would be considered a shock to the conscience of anyone  
2 that would be subjected to such conduct.

3 **110.**

4 The Plaintiffs HARLEY WELLS and CATHERINE M. WELLS acted within the  
5 provisions of the Arizona Revised Statutes under the AMMA and have experienced and/or suffered  
6 severe or extreme emotional distress as the actual or proximate result of the Defendant GRAHAM  
7 COUNTY, by and through their agents and employees, named as defendants herein, collective  
8 conduct as detailed herein.

9 **111.**

10 By reason thereof, plaintiff has been injured, sustained losses and suffered damage as  
11 herein alleged.

12 WHEREFORE, plaintiff prays for judgment against defendants, and each of them, as  
13 hereinafter set forth.

14  
15 **Prayers for Relief**

16 WHEREFORE, Plaintiffs HARLEY WELLS and CATHERINE M. WELLS prays for  
17 judgment against defendants, and each of them, hereinafter set forth.

- 18 A. General damages in an amount in excess of Two Million Dollars (\$2,000,000.00) for  
19 actual or compensatory damages;
- 20 B. Compensatory damages in the amount of One Hundred Fifty Thousand Dollars  
21 (\$150,000.00) for each violation of the each of the Plaintiff's constitutional and civil  
22 rights: totaling Nine Hundred Thousand Dollars (\$900,000.00); and,
- 23 C. Compensatory damages for emotional distress in excess of One Million Dollars  
24 (\$1,000,000.00); and,
- 25

1 D. Reimbursement for attorney fees, cost-of-suit and investigation incurred hereby; and,

2 E. For punitive and/or exemplary damages in an amount in excess of Fifteen Thousand  
3 Dollars (\$15,000).

4  
5 Plaintiff further prays for the Court to grant such other relief as is just and proper, including  
6 but not limited to, the costs of this action and their reasonable attorney fees and expenses pursuant  
7 to the Arizona Revised Statutes and the Arizona Rules of Civil Procedure.

8  
9 I hereby certify that I have read this Complaint, and to the best of my knowledge,  
10 information and belief, it is not frivolous or interposed for any improper purpose.

11  
12 DATED this 10<sup>th</sup> day of November, 2022.

13 Respectfully submitted,

14  
15 Harley O. Wells

16 HARLEY O. WELLS  
17 9222 S. Wells Rd.  
Safford, AZ 85546  
18 (928)322-7265

19  
20 Catherine M. Wells

21 CATHERINE M. WELLS  
22 9222 S. Wells Rd.  
23 Safford, AZ 85546  
(928)228-3142

24 Plaintiffs Standing Pro Se  
25

**CERTIFICATE OF SERVICE**

We the undersigned hereby certify that on the 10<sup>th</sup> day of November, 2022, we personally filed the herein First Amended Complaint with the Clerk of the Court causing the filing to be recorded in the TurboCourt/ECF system.

We hereby further certify that on the same day, we served the same, First Amended Complaint, by U.S. first class mail, to the following:

MARK BRNOVICH  
NEVADA STATE ATTORNEY GENERAL

JENNIFER J. SANDERS  
Assistant Attorney General  
416 W. Congress St., 2<sup>nd</sup> Floor  
Tucson, Arizona 85701-1315

*Attorney for Defendant State of Arizona*

&

JELLISON & ROBENS, PLLC

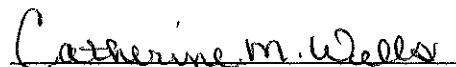
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*Attorney for Defendant Graham County, Arizona*



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